FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

DISTRICT :

WRIT PETITION NO.5400 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.Gabriel Pillai with Mr.Sanjay Jain for the Petitioners.

Mr.Madon with Mr.Vinayak Shete for the Respondents.

CORAM : S.J.VAZIFDAR, J.
DATED : 8TH JANUARY, 2007

P.C:

The impugned order warrants no interference. Prima-facie, the Petitioner's objection to the registration of the society, appears to be mala-fide.

2. The Petitioner was the builder. The building was completed in 1999. Even if the Petitioner's case is to be accepted, it was completed in 1997, The Petitioner has taken no steps to have the society registered.

Ultimately, the Respondents got together and had the society registered. No prejudice whatsoever can be caused by this registration against the Petitioner. In any event, no prejudice has been shown to have been caused to the Petitioner by this registration.

3. Further, the Petitioners also have not indicated how they are likely to be prejudiced by the registration of the society.

4. Faced with this, it was contended that the application for registration contained several misrepresentations. The misrepresentation pertains to the area of the flat. It appears that the area was in excess of 700 sq. ft. The order dated 10.3.1995 granting an exemption under section 6 of the Maharashtra Co-operative Societies Act, is in respect of flats which do not exceed 700 sq. ft. The order does not specify whether it was built

up area or carpet area. This itself is a dispute in question.

5. Even assuming that there is some substance in this contention, there is nothing to indicate that the Applicants, for registration, misrepresented the same to the authorities. The authorities have all the documents before them. The Applicants cannot be faulted for the same.

6. In *Om Sai Pratibha Co-operative Society v. State of Maharashtra & Ors., 2002(5) B.C.R., 177,* the learned single Judge had held that the builders had no locus standi to challenge the registration of the society. This difficulty was sought to be overcome by contending that the Petitioners had retained two flats in the building. However, admittedly, the Petitioners had entered into agreements for sale of the said flats and the suit for specific performance

in respect thereof is pending

7. In this view of the matter it is not necessary for me to consider the dispute regarding the correctness of the translation of the order dated 13th April, 2004.

8. This is not a fit case to exercise jurisdiction under Article 227 of the Constitution of India.

9. Petition is dismissed.